

necessarily to become a part of or additions to an existing interstate highway system, but their construction is plainly of a national rather than a local character, as evidenced by the Federal financial contribution to their construction. And neither the fact that they are not dedicated to interstate use during their construction, nor the fact that they will constitute alternate routes rather than replacement of existing road, constitute sufficient basis, under the controlling court decisions, for excluding them from the coverage of the Act.⁵¹ Accordingly, unless and until authoritative court decision in the future hold otherwise, the construction of such new highways and expressways will be regarded as covered.

§ 776.30 Construction performed on temporarily idle facilities.

The Act applies to work on a covered interstate instrumentality or production facility even though performed during periods of temporary non-use or idleness.⁵² The courts have held the Act applicable to performance of construction work upon a covered facility even though the use of the facility was temporarily interrupted or discontinued.⁵³ It is equally clear that the repair or maintenance of a covered facility (including its machinery, tools, dies, and other equipment) though performed during the inactive or dead season, is subject to the Acts.⁵⁴

⁵¹ *Mitchell v. Vollmer & Co.*, ante; *Tobin v. Pennington-Winter Const. Co.*, 198 F. (2d) 334, certiorari denied 345 U.S. 915; and *Bennett v. V. P. Loftis Co.*, 167 F. (2d) 286.

⁵² *Walton v. Southern Package Corp.*, 320 U.S. 540; *Slover v. Wathen & Co.*, 140 F. (2d) 258 (C.A. 4); *Bodden v. McCormick Shipping Corp.*, 188 F. (2d) 733; and *Russell Co. v. McComb*, 187 F. (2d) 524 (C.A. 5).

⁵³ *Pedersen v. J. F. Fitzgerald Construction Co.*, ante; *Bennett v. V. P. Loftis*, ante; *Walling v. McCrady Const. Co.*, ante; and *Bodden v. McCormick Shipping Corp.*, 188 F. (2d) 733.

⁵⁴ *Maneja v. Waialua Agricultural Co.*, 349 U.S. 254; *Bowie v. Gonzalez*, 117 F. (2d) 11; *Weaver v. Pittsburgh Steamship Co.*, 153 F. (2d) 597, certiorari denied 328 U.S. 858; *Walling v. Keensburg Steamship Co.*, 462 F. (2d) 405.

**PART 778—OVERTIME
COMPENSATION**

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